



**MEMORANDUM**

**To: PLANNING COMMISSION**

**Date: April 21, 2006**

**From: COMMUNITY DEVELOPMENT DEPARTMENT**

**Subject: General Plan Amendment GPA-06-01: Laurel-City of Morgan Hill and  
Zoning Amendment ZA-06-02: Laurel-City of Morgan Hill**

**REQUEST** Proposal to amend the General Plan land use designation from Multi-family Low (5-14 units/acres) to Commercial, and rezoning from R-2 3,500 (Medium Density Residential) to CG (General Commercial) for an approximately 13,500 square foot specialty grocery store to be located on a 2.66-acre parcel (APN 726-43-006) adjacent to and northerly of the Laurel Rd./Walnut Grove Dr. intersection.

**RECOMMENDATION**

Environmental Assessment:

Recommend City Council adoption of a Mitigated Negative Declaration.

Application, GPA-06-01:

Adopt a resolution recommending City Council approval of a change in land use designation to Commercial

Application, ZA-06-02:

Adopt a resolution recommending City Council approval of a change in zoning designation to General Commercial

Processing Deadline:

August 18, 2006

**BACKGROUND**

Last January, the Business Assistance and Housing Services Department filed these applications to facilitate construction of a *Trader Joe's* store on the subject parcel. City Council policy provides that General Plan Amendment requests are to be considered by the City Council during the months of April and October, with December 1<sup>st</sup> and June 1<sup>st</sup> as the respective filing

deadlines. The policy also allows a third floating date to be established upon initiation of the City Council or Planning Commission. On February 15, 2006, the City Council approved use of the floating date to expedite the entitlement process for the applicant whose goal is to open the store by Thanksgiving.

The vacant 2.66 acre parcel located northerly of the Laurel Road/Walnut Grove Drive intersection currently has a Multi-Family Low (5-14 du/ac) General Plan designation and is zoned R2-3,500 (Medium Density Residential). The site would yield a maximum of 37 units based on this designation. Surrounding land uses include a single-family residential neighborhood to the north, commercial development to the south and vacant parcels to the east and west. The vacant property to the west is designated and zoned for multi-family low residential uses. The vacant property to the east has a split General Plan and zoning designations with multi-family low residential to the north and commercial to the south. The commercially designated portion of the property to the east is part of the larger Walnut Grove Planned Unit Development/Highway Commercial zoning, which includes the auto dealership adjacent to the freeway and existing commercial development between Dunne and Laurel.

## **CASE ANALYSIS**

### **General Plan Amendment**

The proposed project requires a General Plan Amendment to a Commercial land use designation for the proposed 13,500 square foot specialty grocery store. The Commercial designation applies to approximately 454 acres within the city and is intended to allow a wide range of retail businesses, office uses and professional services. The Commercial designation is presently applied along arterial roadways west of 101 and along the eastern freeway frontage.

To change the land use designation on the property, the following General Plan goals and policies should be considered:

#### **Land Use Element**

*Goal 7. A variety of housing types and densities available to all residents*

Policy 7e. Provide for an adequate supply of multi-family housing, located convenient to shopping, services, and transportation routes.

Although approval of the General Plan amendment would remove the potential to construct up to 37 units of multi-family housing on the site, the vacant and underutilized sites with a multi-family residential low designation on either side of the parcel have the potential for almost 300 units, all of which are in close proximity to the commercial opportunities near the Dunne/Highway 101 intersection. Further, a General Plan amendment to facilitate a Trader Joe's store on this site would serve these residential parcels as they develop. From a broader perspective, according to a land use analysis performed in May of 2004, there were approximately 202 acres of vacant land with a Multi-Family Residential Low General Plan designation. Further, the loss of two and one-half acres of residentially designated land would be

more than off-set by the residential land being brought into the city through the island annexation efforts.

*Goal 9. Sufficient and concentrated commercial uses*

- Policy 9a. Encourage a variety of commercial and office development to meet the needs of city residents.
- Policy 9c. Encourage retail sales use at major intersections as the focus of clustered commercial development.

The subject parcel is in close proximity to existing commercial uses near the Dunne Avenue/Highway 101 intersection. Approval of the General Plan amendment would allow for a specialty grocery store that does not currently exist in the city.

Economic Development Element

*Goal 1. A strong, stable and diverse economic base*

- Policy 1b. Encourage retention and expansion of existing businesses, and attract new businesses that:
- Generate revenue to the City General Fund (such as retail and point-of-sale manufacturing)
  - Help provide greater fiscal strength and stability to the City of Morgan Hill add diversity t the local economy
  - Stimulate other businesses to develop in the area
  - Augment or provide a service/amenity presently needed or lacking in the community
  - Offer higher-paying, quality jobs for local residents

Approval of a General Plan amendment to accommodate a *Trader Joe's* store is consistent with the above policy.

Circulation Element

Map 4 of the Circulation Element delineates future construction of a two-lane connector road from Walnut Grove Drive to Diana Avenue near the project site. A few years ago, as part of a strategy to attract auto dealers on the parcels to the east, the City examined options to provide the connection. These options included not only the connection as shown in the General Plan, but also an option that would utilize the western portion of the subject parcel to connect with Diana Avenue between James Lex and Rosemary Lane(s). The site plan, as proposed, preserves both of those options.

**Zoning**

The proposed rezoning would change allowed uses from R2-3,500 (Medium Density Residential) to CG (General Commercial). The CG District is intended to create and maintain major commercial areas accommodating a broad range of office, retail sales and other

commercial activities of community-wide significance. Retail uses such as grocery stores are principally permitted in this district.

### **Environmental Review**

An Initial Study has been prepared which examines impacts at both the program level, as well as at the project level. This is necessary because the project includes an amendment to the General Plan and zoning (i.e. program level analysis), as well as site development (project level analysis). The required 20-day public review period began on April 11<sup>th</sup> and concludes on May 1<sup>st</sup>. The study discusses the proposed project in detail, evaluates all potential impacts, and proposes mitigation measures to reduce impacts to less-than-significant levels. Mitigation measures are applied to the following impact areas:

- Air Quality (construction-related)
- Biological (burrowing owls/nesting raptors)
- Cultural Resources
- Hydrology and Water Quality
- Noise (construction-related)
- Traffic (cumulative)

While most of the mitigation measures are fairly standard, the traffic consultant identified an impact that would occur to the Dunne Avenue and Walnut Grove Drive intersection under 2025 General Plan buildout conditions. The proposed mitigation is to provide an additional southbound left turn lane and to combine the southbound through and right turn lane. It should be noted that the traffic analysis prepared in conjunction with the 2001 General Plan proposed a slightly different improvement for this leg of the intersection with one left turn lane, one through lane, and one right turn lane. Although the mitigation measure proposed for this project differs from the General Plan model, the additional second left turn lane would maintain the same number of lanes on the north leg as identified in the General Plan analysis. This improvement is therefore covered under the City's traffic impact mitigation fee program.

All mitigation measures identified in the attached Mitigated Negative Declaration will be applied as conditions of approval for the Site Review permit.

### **RECOMMENDATION**

The proposed General Plan Amendment request can be supported since it is consistent with the applicable General Plan policies of the Community Development, Economic Development and Circulation Element(s), as discussed above. Staff recommends that the Commission forward a recommendation to the City Council for adoption of the Mitigated Negative Declaration and approval of the General Plan and Zoning Amendment requests, by adopting the attached resolutions.

**Attachments:**

1. Mitigated Negative Declaration
2. Resolution Recommending City Council Approval of the General Plan Amendment
3. Resolution Recommending City Council Approval of the Rezoning



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236  
Website Address: [www.morgan-hill.ca.gov](http://www.morgan-hill.ca.gov)

**MITIGATED NEGATIVE DECLARATION**

**I. DESCRIPTION OF PROJECT**

**Date:** April 7, 2006  
**APN:** 726-43-006

**Application #:** GPA-06-01, ZA-06-02, SR-06-05, EA-06-04

**Project Title:** Laurel-Trader Joe's General Plan Amendment and Rezoning

**Project Location:** The project site is located on the north side of Laurel Road at Walnut Grove Drive in the City of Morgan Hill.

**Project Proponent(s):**

General Plan/Rezoning:

Site Review:

City of Morgan Hill  
Business Assistance and Housing Services  
C/O Joyce Maskell  
17555 Peak Avenue  
Morgan Hill, CA 95037  
408.776.7373

Trader Joe's  
C/O Dave Hetzel  
P.O. Box 5049  
Monrovia, CA 91017  
626.599.3776

**Project Description:** The proposed project is the development of a 13,500 square foot specialty grocery store on a 2.66 acre site on the north side of Laurel Road at Walnut Grove Drive in the City of Morgan Hill. The project also includes an amendment to the Morgan Hill General Plan and rezoning of the site.

The proposed General Plan amendment would change the land use designation on the site from *Multi-Family Low (5-14 du/ac)* to *Commercial*. The proposed rezoning would change allowed uses from *R2-3,500 (Medium Density Residential)* to *CG General Commercial*. Uses permitted in the *CG General Commercial District* include retail stores, restaurants, offices, personal services, day care centers and nursery schools.

The proposed specialty grocery store building would be one story in height and would be set back 25 feet from Laurel Road and approximately 290 feet from the closest residential property line on James Lex Lane. The proposed loading dock on the east side of the building would be approximately 38 feet from the property line. The loading area would be bordered by approximately 15 feet of landscaping, a 25 foot wide second access driveway, and a five foot wide strip of landscaping along the eastern property line. The main access driveway from Walnut Grove Drive and landscaping adjacent to parking spaces would border the western boundary. A stormwater detention area would be located between the proposed parking lot and existing residences to the north.

## II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project; therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

## III. CONDITIONS (Mitigation and Avoidance Measures):

### A. *Air Quality:*

The following measures will be implemented by the project, in conformance with permit requirements of grading and building permits issued by the City of Morgan Hill:

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

### B. *Biological Resources:*

#### **Burrowing Owls**

The developer shall participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Game. In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project proposes the following measures to avoid direct and indirect impacts to burrowing owls:

- Pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.
- Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be

established. All project-related activities shall occur outside of the exclusion area until the young have fledged.

- If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.
- The City of Morgan Hill has adopted a fee program that funds setting aside or managing Preserve Land to provide habitat for burrowing owls. Providing habitat for burrowing owls elsewhere offsets indirect and cumulative impacts from the loss of foraging and nesting habitat in the City during the current General Plan planning horizon. Prior to issuance of a building permit, the project applicant shall pay the Burrowing Owl Fee of \$1,076/acre for a commercial project to offset the cost of implementing the Citywide Burrowing Owl Habitat Mitigation Plan.

### **Nesting Raptors**

The following mitigation measures will avoid adverse impacts to individual nesting raptors:

- Removal of the pine trees, as part of a proposed development, could be scheduled between October and December (inclusive) to avoid the raptor nesting season and no additional surveys would be required.
- If removal of the pine trees would take place between January and September, a pre-construction survey for nesting raptors shall be conducted by a qualified ornithologist to identify active nesting raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest until the end of the nesting activity.

The applicant shall submit a report indicating the result of the survey and any designated buffer zones to the satisfaction of the Department of Community Development, Planning Division prior to the issuance of any grading or building permit.

### **C. Cultural Resources:**

The following standard mitigation and avoidance measures are included in the project to reduce potential cultural resource impacts to a less than significant level, in the unlikely event cultural materials are found during site grading or excavation:

- All construction within 50-feet of the find would be halted, the Director of Planning would be notified, and a qualified archaeologist would examine the find and make recommendations regarding the significance of the find and the appropriate mitigation.



Recommendations could include collection, recordation, and analysis of any significant cultural materials.

- If human remains are discovered, the Santa Clara County Coroner shall be notified. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall identify the Most Likely Descendant (MLD) of the deceased Native American.

*D. Hydrology and Water Quality:*

The following standard mitigation and avoidance measures are included in the project to reduce potential hydrology and water quality impacts to a less than significant level:

**Drainage**

- The proposed project includes the construction of a stormwater detention area located near the northern boundary of the project site. In accordance with the City of Morgan Hill Standard Conditions of Approval, the project would prepare and submit a Storm Drainage Study to the Director of Public Works. The Study would include calculations to determine detention pond sizing and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.

**Water Quality**

- In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities, the project will prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans will be submitted to the Director of Public Works and Central Coast Regional Water Quality Control Board for review and approval, prior to issuance of a building permit. The ECP and SWPPP would demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) would be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover) and post-construction periods.
- All stormwater runoff from the project site will be diverted into the proposed stormwater detention area.

*E. Noise*

The following standard controls are included in the project to reduce noise impacts from construction:

- Construction activities shall be limited to the hours between 7:00 AM and 8:00 PM, Monday through Friday, and between the hours of 9:00 AM and 6:00 PM on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).

- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from adjacent residential receivers.
- Utilize "quiet" air compressors and other stationery noise sources where technology exists.
- The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities (e.g., site grading). The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- A "Noise Disturbance Coordinator", responsible for responding to any local complaints about construction noise will be designated by the project applicant. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator will be conspicuously posted at the construction site and included in notices sent to neighbors regarding the construction schedule.
- Prior to issuance of a building permit, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

#### *F. Transportation*

The following roadway improvements would reduce or avoid the 2025 General Plan traffic impact at Dunne Avenue and Walnut Grove Drive:

- Restriping to provide an additional southbound left-turn lane and combining the southbound through and right-turn lanes would result in LOS D+ operations with an average 37.6 seconds of delay. Based on field measurements and observations, the proposed restriping could be accommodated within the existing right-of-way improvements.

This improvement is included in the City's traffic mitigation fee program. The project applicant will pay traffic impact fees which will represent the project's fair share contribution to mitigate the impact.

### III. FINDING

The City of Morgan Hill Community Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in

this case because the mitigation and avoidance measures summarized above and described in the initial study are included in the project.

Kathy Molloy Previsich  
Kathy Molloy Previsich  
Community Development Director

Date: April 11, 2006

**RESOLUTION NO. \_\_-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT APPLICATION NO. GPA-06-01: LAUREL – CITY OF MORGAN HILL TO AMEND THE GENERAL PLAN LAND USE DESIGNATION FROM MULTI-FAMILY LOW (5-14 UNITS/ACRES) TO COMMERCIAL ON A 2.66-ACRE PARCEL (APN 726-43-006) ADJACENT TO AND NORTHERLY OF THE LAUREL RD./WALNUT GROVE DR. INTERSECTION.**

**WHEREAS**, such request was considered by the Planning Commission at their regular meeting of April 25, 2006, at which time the Planning Commission recommended approval of application GPA-06-01: Laurel – City of Morgan Hill; and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The General Plan Amendment is consistent with the provisions of the General Plan.

**SECTION 2.** An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be adopted.

**SECTION 3.** The Planning Commission recommends that the General Plan Amendment shown in the attached Exhibit “A” be approved by the City Council.

**SECTION 4.** Future development of the General Plan Amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.

**PASSED AND ADOPTED THIS 25<sup>th</sup> DAY OF APRIL, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES:            COMMISSIONERS:**

**NOES:           COMMISSIONERS:**

**ABSTAIN: COMMISSIONERS:**

**ABSENT: COMMISSIONERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**FRANCES O. SMITH, Deputy City Clerk**

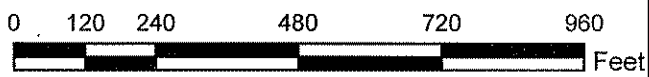
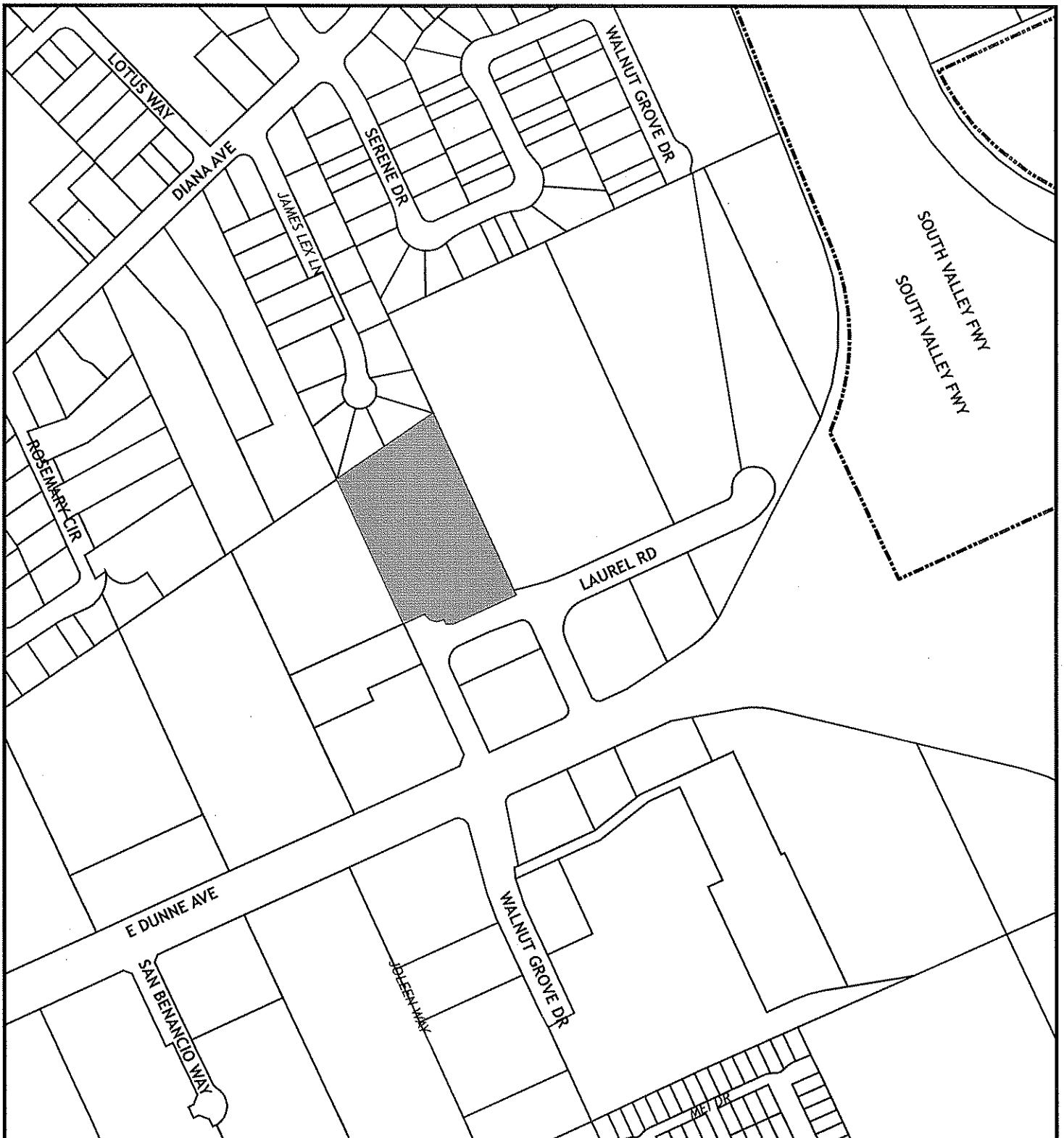
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**RALPH LYLE, Chair**


**A F F I D A V I T**

I, \_\_\_\_\_, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

\_\_\_\_\_  
(Type Name) \_\_\_\_\_, Applicant

Date: \_\_\_\_\_



 Amend the General Plan designation from Multi-Family Low to Commercial



## EXHIBIT "A"

**GPA-06-01: Laurel - City of Morgan Hill**



**RESOLUTION NO. \_\_-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF ZONING AMENDMENT APPLICATION NO. ZA-06-02: LAUREL – CITY OF MORGAN HILL TO AMEND THE ZONING DESIGNATION FROM R-2 3,500 (MEDIUM DENSITY RESIDENTIAL) TO CG (GENERAL COMMERCIAL) ON A 2.66-ACRE PARCEL (APN 726-43-006) ADJACENT TO AND NORTHERLY OF THE LAUREL RD./WALNUT GROVE DR. INTERSECTION.**

**WHEREAS**, such request was considered by the Planning Commission at their regular meeting of April 25, 2006, at which time the Planning Commission recommended approval of application ZA-06-02: Laurel – City of Morgan Hill; and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:**

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be adopted.
- SECTION 4.** The Planning Commission hereby recommends approval to amend the zoning designation from R-2 3,500 (Medium Density Residential) to CG (General Commercial) as shown on the attached zoning plat (Exhibit "A").
- SECTION 5.** Future development of the Zoning Amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.

**PASSED AND ADOPTED THIS 25<sup>th</sup> DAY OF APRIL, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES:            COMMISSIONERS:**

**NOES: COMMISSIONERS:**

**ABSTAIN: COMMISSIONERS:**

**ABSENT: COMMISSIONERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**FRANCES O. SMITH, Deputy City Clerk**

\_\_\_\_\_  
**RALPH LYLE, Chair**

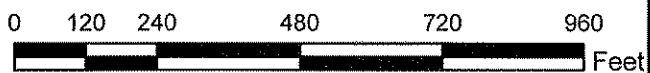
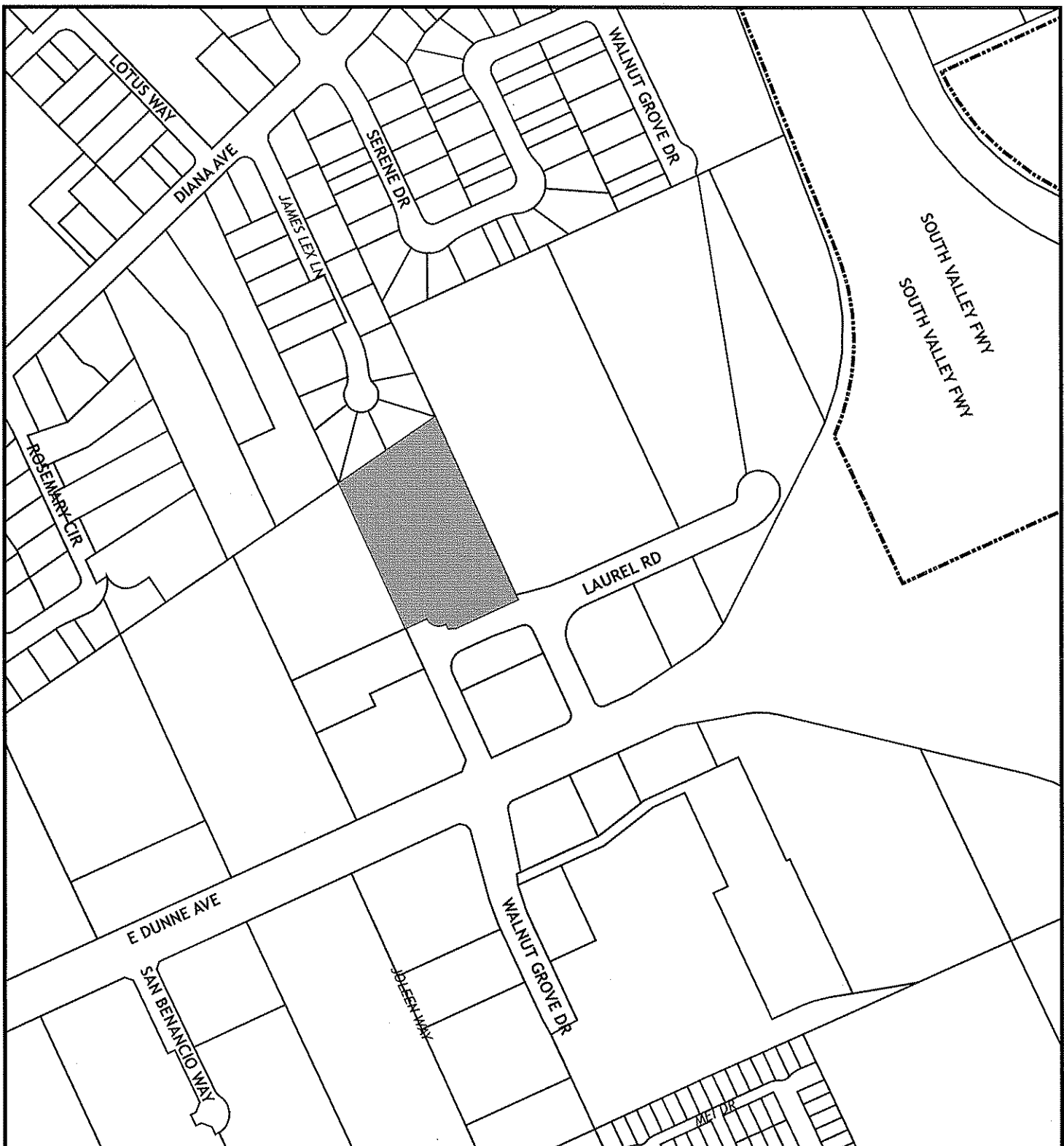
**A F F I D A V I T**


I, \_\_\_\_\_, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

\_\_\_\_\_  
(Type Name) \_\_\_\_\_, Applicant

Date: \_\_\_\_\_





 Rezone from R-2 3,500 to CG



## EXHIBIT "A"

**ZA-06-02: Laurel - City of Morgan Hill**

